

Minnesota Cost Recovery Process for Conservation Program Contracts

1. Determine if the contract is to be Canceled or Terminated.
 - a. Cancellation is a voluntary request by participant. Participant must provide a written request to the DC.
 - b. Termination by NRCS is due to non-compliance, ineligibility, loss of control of the land, etc. The termination issue(s) has been previously identified and provided to participant via a status review.
2. Field office completes Worksheet 1. For Cancellations, attach the required participant's request. The participant needs to state their case for good faith and/or hardship. Employees should not assume they know the participant's case. NRCS should document any NRCS errors or deficiencies. Forward Worksheet 1 and attachments to your area office.
3. The ASTC(FO) will review and concur via Worksheet 1 and forward to the state office.
4. State office calculates the maximum cost recovery based on the implementation status and the year of the contract/appendix.

EQIP		
IF the Implementation status is:	AND the year of the contract is:	THEN the maximum cost recovery is:
No payments made & no practices installed	1996-2002	the contract may be canceled with no liquidated damages
	2003 - 2005	liquidated damages will be assessed at 20% of the total FA & TA
	2006	liquidated damages will be assessed at 20% of the total FA
Practices implemented & payments made	1996-2001	refund total funds paid plus interest plus 25% of payments disbursed as liquidated damages
	2002	refund total funds paid plus interest
	2003 - 2005	refund total funds paid plus liquidated damages at 20% of the total FA & TA
	2006	refund total funds paid plus liquidated damages at 20% of the total FA

WHIP		
IF the Implementation status is:	AND the year of the contract is:	THEN the maximum cost recovery is:
No payments made & no practices installed	any	the contract may be canceled liquidated damages do not apply to WHIP
Practices implemented & payments made	any	refund total funds paid plus interest

Currently the agency is not assessing interest until the debt is delinquent. The debt would be delinquent after the participant has been billed and has not made a payment by the repayment date.

When applicable, liquidated damages are calculated on the total FA and TA obligated to the contract at the time of cancellation or termination. The maximum assessment of liquidated damages will be based on the CPC Appendix, the specific program regulation, and the following table from CPM 512.58(b):

Year of Contract	Maximum Liquidated Damages Assessment (%)
1	7.5
2	15
3	18
4	20
5+	20

The cost recovery (both refunds and liquidated damages) **may be reduced by any amount** by the State Conservationist based on either or both:

- the good faith effort of the participant to comply with the contract
- hardship beyond the participant's control

When completing Worksheet 1, use the following guidelines to quantify good faith:

- 1 = No action taken by the participant to implement any of the contract provisions.
- 3 = The participant has completed at least 50 % of his contract items. This includes both cost-shared and non-cost shared items, but NOT technical assistance (TA) items.
- 5 = The participant has completed at least 80 % of his contract items. The participant worked with NRCS or TSP to develop plans and pursued preliminary steps needed to install the item.

When completing Worksheet 1, use the following guidelines to quantify hardship:

- 1 = No known hardship.
- 3 = Financial difficulty or significant health concerns
- 5 = Bankruptcy, death, terminal illness, natural disaster, or involuntary loss of control of land

Financial assistance (cost-share) refunds for completed practices may be waived provided all of the following are met:

- that failure to perform the remaining planned practices will not impair the effectiveness of those performed
- that the performed practices are consistent with the program's goals
- that the performed practices will be operated and maintained by the participant for the service life of the practice.
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Minnesota will give consideration to reducing or waiving cost recovery where;

- there is documented NRCS employee error
- there is documented inattention or negligence in NRCS technical assistance.

On Worksheet 1 document the error or inattention that occurred with this participant.

5. Where cost recovery is assessed, the state office will provide the final program decision and appeal rights directly to the participant with a copy to the DC. The amount of cost recovery is appealable.
6. Where cost recovery is fully waived, the state office will notify the participant of the cancellation and copy to the DC. The original Worksheet 1 will be returned to the field office.

Under the new appeal procedures, a person receiving an adverse final program decision has the following appeal options:

- Informal hearing with the NRCS state conservationist or the FSA COC
- Mediation
- National Appeals Division hearing